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JAMES H. HARRIS,

Clk.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1905.

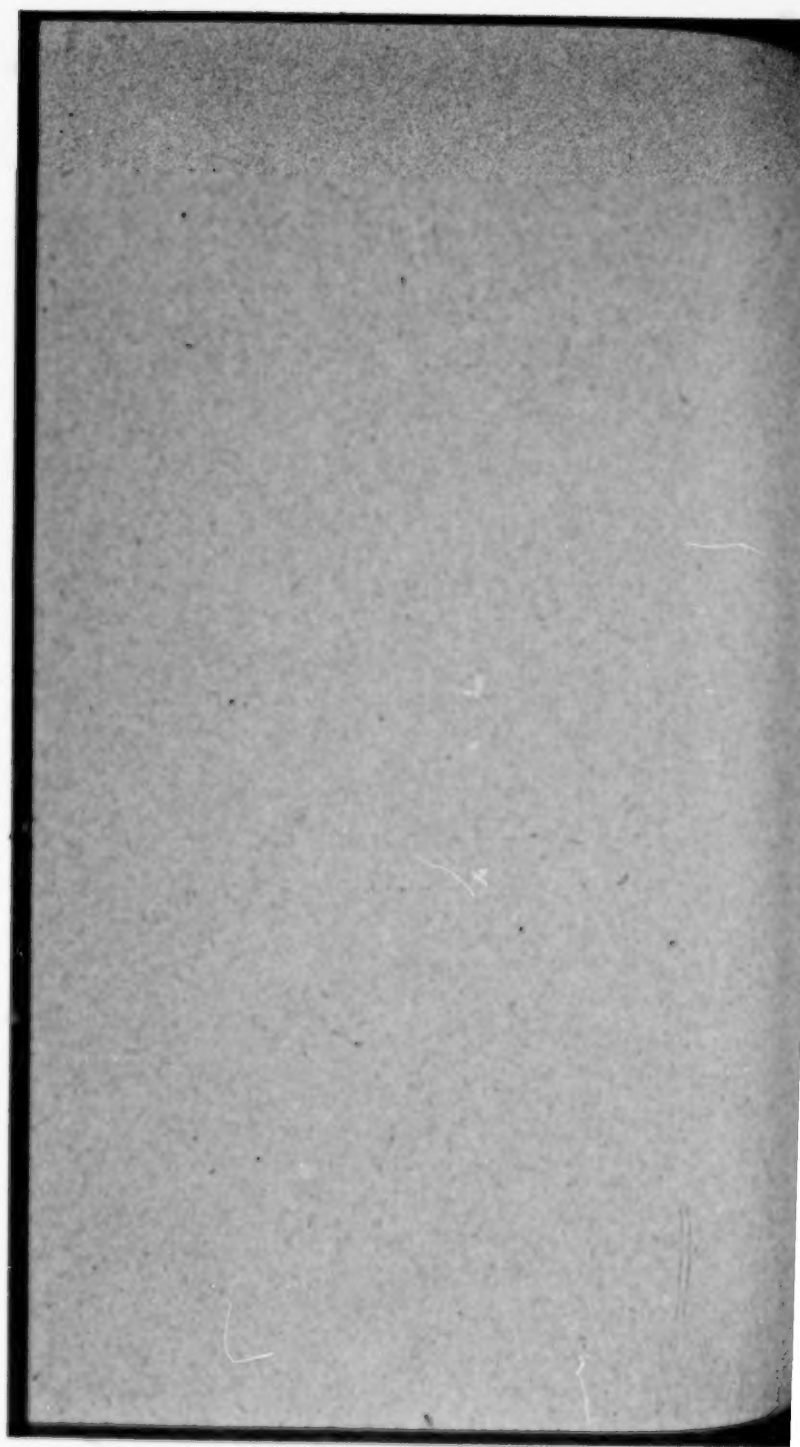
NO. 397.

**THE MICHIGAN CENTRAL RAILROAD COMPANY,
APPELLANT,**

vs.

**PERRY F. POWERS, AUDITOR GENERAL OF THE
STATE OF MICHIGAN, APPELLEE.**

**MOTION TO ADVANCE CAUSE UPON THE
DOCKET AND NOTICE.**



SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

NO. 397.

THE MICHIGAN CENTRAL RAILROAD
COMPANY,

APPELLANT,

VS.

PERRY F. POWERS, AUDITOR GENERAL
OF THE STATE OF MICHIGAN,

APPELLEE.

And now comes the said appellee and moves the Honorable Court to advance this cause upon the docket and to hear it at as early date as the convenience of the Court will permit, and for the reason therefor he states:

That said cause is in ~~fact~~ a suit against the State of Michigan its duly authorized officers being enjoined from enforcing a certain revenue law of the State for the collection of taxes assessed against railroad corporations.

(a) Prior to 1901, railroad corporations in Michigan were taxed specifically, at a certain rate per cent upon their gross earnings, graduated according to the volume of business done.

(b) The method of taxing railroad corporations in said state was changed from a specific to an advalorem basis by certain

amendments to the Constitution of said State, in the year 1900, and the enactment by the Legislature of said State of Act No. 173 of the Public Acts of 1901, entitled "An Act to provide for the assessment of the property of railroad companies, union station and depot companies, express companies, car loaning companies, stock car companies, refrigerator car companies, and fast freight line companies; and for the levy of taxes thereon by a State Board of Assessors, and for the collection of such taxes."

(c) Pursuant to said act, the amount of taxes which the railroad corporations, parties to this suit, were required to pay for the year 1902 by reason of the assessments made by the State Board of Assessors, amounted to \$744,898.04.

(d) The Auditor General was enjoined from collecting said taxes upon the filing of the bill of complaint in the Circuit Court of the United States for the Western District of Michigan, the various railroad corporations, parties hereto, contending that said Act, under which the assessments in questions were made, was unconstitutional and void.

(e) The railroad corporations in question contended that the former laws of the State of Michigan were still in force and that they should be permitted to pay specific taxes on the basis thereof.

(f) Pursuant to such contention, there was paid by said railroad corporations, to the Auditor General of the State of Michigan, the sum of \$263,446.30.

(g) The difference between the amount which the State of Michigan contends said railroad corporations should have paid, and the amount which they actually paid, is the sum of \$481,451.74.

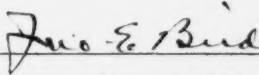
(h) For subsequent years the railroad corporations in question have refused to pay the assessments made by the State Board of Assessors under and pursuant to said Act of 1901, but have continued to deposit with the Auditor Gen-

eral the taxes which they would have been required to pay under the former law.

The revenues of the State of Michigan derived from the assessment of this class of corporations have, therefore, been greatly impaired, and it is specially important to the State of Michigan that the questions at issue in this cause be determined at as early date as the convenience of this Honorable Court will permit.

Respectfully submitted,

Dated November 17th, A. D. 1905.

A handwritten signature in cursive script, reading "Geo. E. Bird", is written over a horizontal line.

Attorney General of Michigan,
Solicitor for Appellee.

Business Address: "Capitol," Lansing, Michigan.

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OF THE STATE OF MICHIGAN,

APPELLEE.

SIR—Please to take notice, that on Monday the 27th
day of *November* A D 1905, I will apply to the
said Court, by motion, to advance said cause upon the Docket
and to hear it at as early a date as the convenience of the
Court will permit.

You are herewith served with a copy of said motion.

Dated this *7th* day of ~~November~~, A. D. 1905.

Geo. E. Bird
Attorney General of Michigan,
Solicitor for Appellee.

To O. E. Butterfield,
Solicitor for Appellant.
Henry Russel,
Ashley Pond,
Of Counsel.

STATE OF MICHIGAN, }
 County of Ingham. } ss.

Henry E. Chase, Deputy Attorney General of the State of Michigan, being first duly sworn, deposes and says that he caused a copy of the foregoing motion and notice to be served upon the said appellant by depositing copies thereof, enclosed in a sealed envelope, with postage fully prepaid thereon and properly addressed, to O. E. Butterfield, Attorney at Law, Detroit, Michigan, in the United States Postoffice at Lansing, Michigan, on the ^{23rd} day of November, A. D. 1905, the said O. E. Butterfield being the solicitor of record for said appellant and that being his proper postoffice address.

Henry E. Chase

Subscribed and sworn to before me this ^{23rd} day of November, A. D. 1905.

Amos Ambrose Lawler

Notary Public, *Washburn* County, Michigan,

Acting in Ingham County.

Commission expires *Dec. 21-1908*